

EX. A

JOINT P.R. 4-5(d) CLAIM CONSTRUCTION CHART**I. Agreed Terms**

No.	Terms	Agreed Construction	Court's Construction
1	storing '219 Patent - Claim 1 '239 Patent - Claim 4	saving to a medium	saving to a medium
2	display device '239 Patent - Claim 4	device that allows a user to view the video program	device that allows a user to view the video program

II. Terms in Dispute

No.	Terms	InMotion's Proposed Construction	Dell's Proposed Construction	Court's Construction
1	recording '219 Patent - Claim 1	No construction necessary (plain language) or, alternatively	capturing and storing	

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No.	Terms	InMotion's Proposed Construction	Dell's Proposed Construction	Court's Construction
		capturing and storing		
2	separately storing information including a subset of the images ¹² '219 Patent - Claim 1	No construction necessary (plain language).	storing information including a copy of the subset of the images in a different location	

¹ This term was not included in either (1) Dell's Local Patent Rule 4-2, Preliminary Claim Constructions and Extrinsic Evidence served on InMotion on May 20, 2013 or (2) the parties' Joint Claim Construction and Prehearing Statement (Dkt. No. 42) filed with this Court June 10, 2013. Moreover, this term was also not the subject of claim construction briefing in InMotion's Opening Claim Construction Brief (Dkt. No. 45), filed on June 27, 2013, because it was not disclosed as a contentious term until Dell's Responsive Claim Construction Brief (Dkt. No. 51), filed on July 11, 2013. Dell did not request leave from this Court or from InMotion to add a new term for construction in the middle of claim construction briefing. The Court defined clear procedures for disclosing claim construction issues in its Local Rules, and Dell chose to ignore these procedures to its peril. Under Dell's interpretation of *O2 Micro International v. Beyond Innovation Technology*, Dell could raise a new dispute on the eve of trial and the Court must resolve it. Notwithstanding this problem, Dell is seeking completely different constructions of this term "separately storing **information including a subset of images**" and the term "**information including a subset of images**," which covers overlapping language in Claim 1 of the '219 Patent. A construction of both terms in different ways could render the claim invalid. Finally, contrary to Dell's allegation, InMotion did not in fact brief this term in its Reply brief (Dkt. No. 52, at p.2) (noting that "**No construction provided by InMotion because this phrase was not included in the terms the parties agreed should be construed**"). As such, the term is not properly the subject of claim construction before this Court.

² In its opening brief, InMotion argued that its proposed construction for "separately storing" is correct because the word "information" follows the phrase "separately storing." Opening Brief, Docket No. 45 at pp. 12-13. InMotion chose not explain to the Court that "information" appears *only* in the asserted claim of the '219 patent and *does not appear* in the asserted claim of the '239 patent. *Id.* To correct InMotion's misstatement and to prevent InMotion from introducing error and confusion into the construction of "separately storing" of both asserted patents through argument, Dell also briefed the larger phrase in the '219 patent in Dell's

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3	separately storing '239 Patent - Claim 4	No construction necessary (plain language) or, alternatively saving to a different region of a medium or to a separate medium	storing a copy in a different location	
4	information including a subset of the images '219 Patent - Claim 1	No construction necessary (plain language) or, alternatively information including less than all of the images of a video program	indexing data <i>and</i> less than all of the images of a video program	

responsive brief. Dell had previously identified all of the terms of the larger phrase for construction. In response, InMotion briefed the larger phrase for the '219 patent in its Reply Brief, Docket No. 52, at pp. 2-6. Construction of the larger phrase for the '219 patent is appropriate and required, as the parties briefing and this submission demonstrates that a claim construction dispute exists as to the scope of the claim term. "When the parties present a fundamental dispute regarding the scope of a claim term, it is the court's duty to resolve it." *O2 Micro International Ltd. v. Beyond Innovation Technology Co.*, 521 F.3d 1351, 1362-63 (Fed. Cir. 2008).

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No.	Terms	InMotion's Proposed Construction	Dell's Proposed Construction	Court's Construction
5	recorded program '219 Patent - Claim 3	No construction necessary (plain language) or, alternatively a sequential set of images that have been captured and stored	a sequential set of images that have been captured and stored	
6	windows '219 Patent - Claim 1 '239 Patent - Claim 4	No construction necessary (plain language) or, alternatively viewing areas	scrollable viewing areas on a screen capable of displaying motion imagery	
7	user '219 Patent - Claim 3 '239 Patent - Claim 4	No construction necessary (plain language) or, alternatively a person, a person using an electronic device, an electronic device, or electronic devices	the person that causes the steps of the program to be performed	

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No.	Terms	InMotion's Proposed Construction	Dell's Proposed Construction	Court's Construction
8	user-selecting a displayed image '219 Patent - Claim 3	No construction necessary (plain language) or, alternatively selecting, by a person, a displayed image	selecting, by a person, a displayed image	
9	segments of the [video] program [which]/[that] are [separated]/[spaced apart] in time '219 Patent - Claim 1 '239 Patent - Claim 4	series of images selected from different time periods of the video program	respective series of images selected from different time periods of the video program	
10	subset of the frames '239 Patent - Claim 4	less than all of the pictures [images] of the video program	less than all of the frames of the video program	
11	motion imagery '219 Patent - Claim 1	sequential images as opposed to still images	a few seconds or more of sequential motion images as opposed to still images	

InMotion Imagery Technologies, LLC v. Dell Inc., Case No. 2:12-cv-00624-RSP, Eastern District of Texas, Marshall Division**JOINT P.R. 4-5(d) CLAIM CONSTRUCTION CHART**

No.	Terms	InMotion's Proposed Construction	Dell's Proposed Construction	Court's Construction
	'239 Patent - Claim 4			
12	segment including motion imagery '219 Patent - Claim 1	series of sequential motion images of the video program	series of a few seconds or more of sequential motion images as opposed to still images	
13	video program '219 Patent - Claim 1 '239 Patent - Claim 4	sequential set of images which form a moving picture	sequential set of images of previously recorded video material	
14	time-sequential frames representative of motion imagery '239 Patent - Claim 4	time sequential pictures [images] representative of sequential motion images	No construction necessary	